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09/157,998	09/22/1998	RONALD LESSER		3406

7590 07/23/2009  
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EXAMINER
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MORGAN, ROBERT W

ART UNIT	PAPER NUMBER
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3626

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### ***Advisory Action***

In the remarks, Applicants argue in substance that, (1) Evans and Dorne do not teach navigating and/or calculating the highly complex intermediate and final E&M billing codes; (2) Evans fails to disclose or suggest a means of generating new data; (3) Evans does not teach providing an algorithm in order to obtain a diagnosis; and (4) Nowhere does Letzt disclose or suggest recording the passage of ANY interval of time (such as the time spent by a provider in a specific patient encounter), recording the total patient counseling time, and determining what fraction counseling constitutes of the total time of the encounter.

In response to Applicants argument that, (1) Evans and Dorne do not teach navigating and/or calculating the highly complex intermediate and final E&M billing codes. The Examiner respectfully submits that the Dorne reference, and not Evans and Peters, *per se*, that was relied upon for the specific teaching of an apparatus for correlating billing codes with medical procedures comprising: an electronic means including a processing means for calculating intermediate values based on said recorded information (Fig. 1, col. 3 lines 18-38, col. 20-46) and a processing means for using said intermediate values to generate said billing code (Fig. 1, col. 3 lines 18-38, col. 20-46), wherein calculating a billing code includes calculating an appropriate code from the United States Health Care Financing (HCFA) (col. 1, lines 15-30). Evans is relied on for teachings the use of ICD9 and CPT codes for the purpose of billing an insurance company for the medical services provided (Fig. 24, col. 4 line 64 to col. 5 line 27, col. 16 lines 2-20). Peters is relied for teachings a survey including branched-to questions linked to another question or questions such that the branched-to question or questions will only be required to be answered by a respondent user if the respondent user gives a predetermined

answer to the question or series of questions to which the branched-to question is linked (col. 5 line 54 to col. 6 line 27). Thus, the proper combination of the applied references would be the incorporation of Dorne's system for calculating billing codes with the system as taught by Evans and Peters.

In response to Applicants argument that, (2) Evans fails to disclose or suggest a means of generating new data and (3) Evans does not teach providing an algorithm in order to obtain a diagnosis. The Examiner respectfully submits that the Dorne reference teaches an interactive system using interactive program to generate appropriate CPT codes associated with procedures and the procedure parameters inputted by the user by implementing a series of method steps comprising a final common pathway (see: column 10, lines 16-20). This clearly indicates that CPT codes are generated in response the user inputting raw data.

Furthermore, it is noted that the features upon which applicant relies (i.e., an algorithm in order to obtain a diagnosis) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to Applicants argument that, (4) Nowhere does Letzt disclose or suggest recording the passage of ANY interval of time (such as the time spent by a provider in a specific patient encounter), recording the total patient counseling time, and determining what fraction counseling constitutes of the total time of the encounter. The Examiner respectfully submits the Letzt references teach a program governing the counseling messages with a timer for time T4, at step 173, used to count down to zero then recorded at step 176, as well as the R counter, which is incremented by one each counseling message. Therefore, tracking the time and the number of

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counseling messages generated by the counseling program meets the claimed “a timer for tracking total time and patient counseling time during said patient encounter”.